

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Acceleration of Broadband Deployment	)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of	)	
Broadband Deployment by Improving Policies	)	
Regarding Public Rights of Way and Wireless	)	
Facilities Siting	)	

**COMMENTS OF THE CITY OF LAS VEGAS, NEVADA**

The city of Las Vegas files these comments in response to the Notice of Inquiry (“NOI”), released April 7, 2011, in the above-entitled proceeding. Through these comments, the city of Las Vegas seeks to provide the Commission with basic information regarding its local right-of-way and facility management practices to effectively communicate the City’s position on this issue and issues related to it.

The city of Las Vegas has developed considerable expertise applying its policies to protect and further public safety, economic development, and other community interests. By adopting rules in this area, the City believes the Commission could disrupt the local process at a substantial cost to local taxpayers and to the local economy. We believe that a basic respect for federalism, a fair reading of the Constitution and the Communications Act, and an honest assessment of the Commission’s limited expertise on local land use matters all point to the same conclusion: this is no place for federal regulation.

In response to the NOI, the city of Las Vegas provides the following information:

The city of Las Vegas has successfully managed its property to encourage deployment of several broadband networks to date. There is no evidence that our policies or charges with respect to placement of facilities in the rights-of-way or on City property has discouraged broadband deployment. Our community welcomes broadband deployment, and our policies allow us to work with any company willing to provide service.

## **I. RIGHTS OF WAY AND WIRELESS FACILITIES SITING ISSUES**

### ***Timeliness and Ease of Permitting Process***

Broadband companies have not cited our policies and regulations as a reason that services will not be provided. We believe our policies have helped to avoid problems and delays in broadband deployment by ensuring that broadband deployment goes smoothly for both the providers who follow the rules and the larger community.

The City of Las Vegas Public Works Department has believed for several years that it should develop cooperative arrangements with deployers of wireless broadband equipment and systems, including those seeking municipal-wide broadband deployments. Currently, the City has entered into three discreet “Pole Attachment Agreements” with private entities, and is constantly seeking more firms with which to partner. These firms have forged a mutually beneficial relationship with the City, and the supportive arrangement for the use of pole space and the associated airspace in public right of way has helped successfully deploy broadband in formerly unserved or underserved areas of the Las Vegas valley.

Our experiences have indicated that as an organization we strive to promote the processes and procedures to spread wireless communication systems while protecting taxpayer investments, as well as promoting traffic safety. As market economics drive this type of deployment in urban areas such as Las Vegas, the City elects to implement simple, seamless permitting processes, and offer this as an incentive to all parties who choose to support the integrated deployment of a regional wireless communication systems. We work closely with telecommunications firms, while guiding them through the permitting process, thus supporting further deployment with an attitude of partnering.

On the other hand, we also know that many entities seeking access to our rights-of-way and facilities would prefer to live without rules or regulations, to the great detriment of other users, abutting landowners, commuters, and the general taxpayer.

***Application Procedures, Forms, Substantive Requirements, and Charges.***  
**Reasonableness of Charges**

Public Works is concerned with the loss of revenue if unfettered or unregulated access were to be given to those firms who choose to use our City's public right of way. It should be noted that in conjunction with the Pole Attachment Agreements, the City has entered into cooperative power sharing arrangements with these private parties who choose to attach to our assets. These assets specifically include roadway lighting, traffic signal, flasher, and other Intelligent Transportation System pole assets located within the City's controlled right of way. Additionally, the costs charged for attaching to the City assets assist in defraying Public Works costs associated with public safety specifically related to the tracking, inspecting, maintaining, and repairing of the installations, the equipment, and the poles themselves.

Several years ago, while reaching out to the industry, the local governmental entities within the Las Vegas metropolitan area met with various broadband providers, and worked closely with these firms in developing a reasonable rate associated with each physical pole attachment. We believe our rate is still a mutually beneficial arrangement for both the citizens of the City as well as the private telecommunications providers. Additionally, the competition between competing interests for limited right of way space provides further evidence that the rates charged for the use of the City's pole assets is fair and reasonable.

**Qualitative Information**

One critical issue of concern of Public Works for unregulated deployment would be the loss of control over the frequency spectrum as it relates to public safety. Considerable equipment has been deployed by the City and other governmental entities utilizing a wide range of frequencies for public safety involving emergency responders, traffic operations, emergency management, traffic incident management, traffic signal control, and transit operations. Uncontrolled and unregulated widespread access to public right of way within the City of Las Vegas could jeopardize the overall safety of our community.

Another issue of concern by Public Works would be the loss of control over use of its own physical pole assets themselves. Numerous instances exist where the City requires the physical pole space desired by the requesting wireless service providers. Only after the requestor has verified the structural integrity of the pole asset, should the structure even be considered for mounting of the broadband equipment. The City must be able to have the complete and final decision on the proposed attachment. In all instances, the decision will be based on achieving public interest goals, such as ensuring public safety, avoiding disruption of traffic, maintaining roadway assets, and providing safe access to public rights of way. The

City must always have the final say in the type of equipment to be attached, while satisfying aesthetic, environmental, community specific, or historic preservation concerns.

## **II. Possible Commission Actions.**

As noted above, the city of Las Vegas strongly urges the FCC to refrain from regulating local right-of-way management and facility placement processes. These are highly fact-specific matters, which turn on local engineering practices, local environmental and historical conditions, local traffic and economic development patterns, and other significant community concerns and circumstances. These matters are managed by local staffs with considerable expertise. Imposing a federal regulatory regime would create unnecessary costs for our community, and it would have the potential to undermine important local policies. Likewise, Commission regulation of charges for use of the rights-of-way could have significant impacts on the community, and may actually make it infeasible to continue to maintain or provide important public services. If the Commission feels compelled to act in this area at all, it should limit itself to voluntary programs and educational activities, and to implementing its own recommendations in the National Broadband Plan for working cooperatively with state and local governments.

## **CONCLUSION**

The city of Las Vegas urges the Commission to conclude that right-of-way and facility management and charges are not impeding broadband deployment. It is our opinion that the City must continually strive for equity among all users of the City's right of way. This includes non-discriminatory treatment of all public utilities, such as water, sewer, electricity, telephone, and cable providers of service to the community. If special treatment were given to telecommunications over any of these, consideration should be given to unintended consequences, and the associated lack of equanimity of such a decision. As such, the City's is concerned about giving broadband a federal preference in the use of the right-of-way over other public utilities. Thank you for allowing us the opportunity to respond to the NOI, and please feel free to let us know if you have any questions regarding these responses.

As indicated above, our policies and procedures are designed to protect important local interests, and have done so for many years. There is no evidence that the policies have impaired any company from providing broadband service here, and there are many reasons to believe that federal regulations would prove costly and disruptive to our community.

Respectfully submitted,

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